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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/989,701	11/21/2001	Stewart Boal JR.	P 283199	9615

909 7590 02/24/2004
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EXAMINER

CARTAGENA, MELVIN A

ART UNIT PAPER NUMBER

3754

DATE MAILED: 02/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/989,701

Applicant(s)

BOAL, STEWART

Examiner

Melvin A. Cartagena

Art Unit

3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-69 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-69 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 5-10, 12-18, 20-30, 32-37, 39-45 and 47-69 are rejected under 35

U.S.C. 102(b) as being anticipated by US 3,870,085 to Schneider.

Schneider shows a seal apparatus as seen in Figs. 1-4 to seal a vessel P, an inflatable and collapsible polymer structure 30, seal members between folds 48, a flexible support member 38 allowing longitudinal expansion of sections 28, see column 2, lines 27-35, rigid end members 41 and a valve 47. The device of Schneider performs the steps of placing the deflated device inside a vessel and then inflating the device till the sealing elements engage the inner wall of the vessel to provide a fluid tight seal there between, and deflating the device before it is removed, as claimed in claims 58-62. With respect to the fluid forcibly driven by the expanding device as claimed in claim 67, it is inherent for the fluid adjacent to the device to be driven as the device is expanded and occupies the space of the fluid.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 3,870,085 to Schneider.

Schneider shows all claimed features as discussed above except for the flexible support made of a polymer rope. It would have been obvious to a person with ordinary skill in the art at the time the invention was made to use any suitable material to replace the flexible support of Schneider, including a polymer rope, since (use of such materials) in lieu of those use in the reference(s) solve(s) no stated problem and would be an obvious matter of design choice within the skill in the art. *In Re Kuhle*, 188USPQ 7 (CCPA 1975).

5. Claims 11, 38, 19 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 3,870,085 to Schneider.

Schneider shows all claimed features as discussed above except for the use of lubricant and a second valve to remove the pressurized gas from the device. It would have been obvious to a person with ordinary skill in the art at the time the invention was made to use lubricant to facilitate the insertion and removal of the device from inside the vessel and the use of a second valve to provide better gas flow control in the vessel.

Response to Arguments

6. Applicant's arguments filed December 16, 2003 have been fully considered but they are not persuasive. The device of Schneider contains several protruding members as seen in the figures, this protruding members are intended to increased the friction between the device and the inside of the pipe, this is well known in the art. Also the folds of the device of Schneider unfold as the inflatable member expands. In addition, the device of Schneider contains the non-

Art Unit: 3754

rigid support 38 that prevents longitudinal expansion of the enclosed structure after a desired length has been reached, as indicated in page 11, lines 3-10 of the applicant's specifications.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melvin A. Cartagena whose telephone number is (703) 308-5810. The examiner can normally be reached on M-F (7:30AM to 4:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Louis G. Mancene can be reached on (703) 308-2696. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3754

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MAC 2/10/04
MAC

A handwritten signature in black ink, appearing to read "Gene Mancene", with a long horizontal flourish extending to the right.

Gene Mancene
Supervisory Patent Examiner
Group 3700